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# A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 329-20, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Depressants. Any material, compound, mixture, or  
4 preparation which contains any quantity of the following  
5 substances having a degree of danger or probable danger  
6 associated with a depressant effect on the central nervous  
7 system:

8           (1) Alprazolam;

9           (2) Barbital;

10          (3) Bromazepam;

11          (4) Butorphanol;

12          (5) Camazepam;

13          (6) Carisoprodol;

14          (7) Chloral betaine;

15          (8) Chloral hydrate;

16          (9) Chlordiazepoxide;

17          (10) Clobazam;

18          (11) Clonazepam;



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- 1 (12) Clorazepate;
- 2 (13) Clotiazepam;
- 3 (14) Cloxazolam;
- 4 (15) Delorazepam;
- 5 (16) Dichloralphenazone (Midrin);
- 6 (17) Diazepam;
- 7 (18) Estazolam;
- 8 (19) Ethchlorvynol;
- 9 (20) Ethinamate;
- 10 (21) Ethyl loflazepate;
- 11 (22) Fludiazepam;
- 12 (23) Flunitrazepam;
- 13 (24) Flurazepam;
- 14 (25) Halazepam;
- 15 (26) Haloxazolam;
- 16 (27) Ketazolam;
- 17 (28) Loprazolam;
- 18 (29) Lorazepam;
- 19 (30) Lormetazepam;
- 20 (31) Mebutamate;
- 21 (32) Medazepam;
- 22 (33) Meprobamate;



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- 1 (34) Methohexital;
- 2 (35) Methylphenobarbital (mephobarbital);
- 3 (36) Midazolam;
- 4 (37) Nimetazepam;
- 5 (38) Nitrazepam;
- 6 (39) Nordiazepam;
- 7 (40) Oxazepam;
- 8 (41) Oxazolam;
- 9 (42) Paraldehyde;
- 10 (43) Petrichloral;
- 11 (44) Phenobarbital;
- 12 (45) Pinazepam;
- 13 (46) Prazepam;
- 14 (47) Quazepam;
- 15 (48) Temazepam;
- 16 (49) Tetrazepam;
- 17 (50) Triazolam;
- 18 (51) Zaleplon; [~~and~~]
- 19 (52) Zolpidem[~~-~~]; and
- 20 (53) Zopiclone (Lunesta)."

21 SECTION 2. Section 329-64, Hawaii Revised Statutes, is  
 22 amended by amending subsection (a) to read as follows:

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1           "(a) The requirements imposed by sections 329-62, [~~329-~~  
2 ~~63~~] 329-63(a), and 329-67 of this part shall not apply to any  
3 of the following:

4           (1) Any pharmacist or other authorized person who sells or  
5           furnishes a substance upon the prescription of a  
6           physician, dentist, podiatrist, or veterinarian;

7           (2) Any physician, dentist, podiatrist, or veterinarian  
8           who administers or furnishes a substance to patients;

9           (3) Any manufacturer or wholesaler licensed by the State  
10          who sells, transfers, or otherwise furnishes a  
11          substance to a licensed pharmacy, physician, dentist,  
12          podiatrist, or veterinarian; [~~and~~]

13          (4) Any sale, transfer, furnishing, or receipt of any drug  
14          [~~which~~] that contains [~~ephedrine~~] pseudoephedrine[~~7~~]  
15          or norpseudoephedrine[~~7~~, ~~or~~ ~~phenylpropanolamine~~ and  
16          ~~which~~] that is lawfully sold, transferred, or  
17          furnished over the counter without a prescription  
18          pursuant to the federal Food, Drug, and Cosmetic Act  
19          (21 United States Code Sec. 301 et seq.) or  
20          regulations adopted thereunder[~~7~~] as long as it  
21          complies with the requirements of sections 329-73,  
22          329-74, and 329-75; and



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1           (5) Any "dietary supplement" as defined by the federal  
 2           Food, Drug, and Cosmetic Act (21 United States Code  
 3           Sec. 301) containing ephedrine alkaloids extracted  
 4           from any species of Ephedra that meets all of the  
 5           following criteria:

6           (A) It contains, per dosage unit or serving, not more  
 7           than twenty-five milligrams of ephedrine  
 8           alkaloids and its labeling does not suggest or  
 9           recommend a total daily intake of more than one  
 10          hundred milligrams of ephedrine alkaloids;

11          (B) It contains no hydrochloride or sulfate salts of  
 12          ephedrine alkaloids; and

13          (C) It is packaged with a prominent label securely  
 14          affixed to each package that states all of the  
 15          following:

16           (i) The amount in milligrams of ephedrine  
 17           alkaloids in a dosage unit or serving;

18           (ii) The amount of the dietary supplement that  
 19           constitutes a dosage unit or serving; and

20           (iii) The maximum recommended dosage of ephedrine  
 21           alkaloids for a healthy adult human is not



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1 more than one hundred milligrams in a  
2 twenty-four hour period."

3 SECTION 3. Section 329-75, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~{}~~§329-75~~}~~ **Sales of products, mixtures, or**  
6 **preparations containing pseudoephedrine; reporting requirement**  
7 **for wholesalers.** (a) Notwithstanding any other law to the  
8 contrary, a pharmacy or retailer may dispense, sell, or  
9 distribute without a prescription not more than ~~three packages~~  
10 ~~or not more than nine~~ 3.6 grams per ~~transaction~~ day without  
11 regard to the number of transactions, of any product, mixture,  
12 or preparation containing any detectable quantity of  
13 pseudoephedrine, its salts, optical isomers, or salts of optical  
14 isomers, as the only active ingredient or in combination with  
15 other active ingredients; provided that the pharmacy or retailer  
16 complies with the following conditions:

17 ~~(1) The product, mixture, or preparation shall be~~  
18 ~~dispensed, sold, or distributed from an area that is~~  
19 ~~in the direct line of sight of an employee at the~~  
20 ~~checkout station or counter;~~

21 ~~(2) The product, mixture, or preparation shall be~~  
22 ~~dispensed, sold, or distributed from an area that is~~



~~under constant video monitoring with signage placed  
near the drug that warns that the area is under  
constant video monitoring; or]~~

[+3] (1) The product, mixture, or preparation shall be  
dispensed, sold, or distributed from an area not  
accessible by customers or the general public, such as  
behind the counter or in a locked display case[-] and  
where the seller delivers the product directly into  
the custody of the purchaser; and

(2) Any person purchasing or otherwise acquiring any  
product, mixture, or preparation shall:

(A) Produce proper identification containing the  
photograph, printed name, and signature of the  
individual obtaining the controlled substance;  
and

(B) Sign a written log, receipt, or other program or  
mechanism approved by the administrator, showing  
the date of the transaction, name and address of  
the person, and the amount of the compound,  
mixture, or preparation.

No person shall purchase, receive, or otherwise acquire more  
than nine grams of any product, mixture, or preparation

1 containing any detectable quantity of pseudoephedrine or its  
2 salts, isomers, or salts of optical isomers within a thirty-day  
3 period, except that this limit shall not apply to any quantity of  
4 such product, mixture, or preparation dispensed pursuant to a  
5 valid prescription.

6 (b) The sales restriction in this section, as it applies  
7 to products, mixtures, or preparations containing any detectable  
8 quantity of pseudoephedrine, its salts, optical isomers, or  
9 salts of optical isomers, shall not apply to any products,  
10 mixtures, or preparations that are in liquid, liquid capsule, or  
11 gel capsule form if pseudoephedrine is not the only active  
12 ingredient.

13 (c) The department, by rule, may exempt other products  
14 from this section, [~~including extended-release pseudoephedrine~~  
15 ~~combination products,~~] if the administrator finds that the  
16 products are not used in the illegal manufacture of  
17 methamphetamine or other controlled substances. A manufacturer  
18 of a drug product may apply for removal of the product from this  
19 section if the product is determined by the administrator to  
20 have been formulated in such a way as to effectively prevent the  
21 conversion of the active ingredient into methamphetamine.





1 (d) Notwithstanding any other provision of this chapter to  
2 the contrary, every wholesaler shall report to the administrator  
3 all sales made to any retailer, of any product, mixture, or  
4 preparation containing any detectable quantity of  
5 pseudoephedrine, its salts, optical isomers, or salts of optical  
6 isomers, as the only active ingredient or in combination with  
7 other active ingredients. The department shall provide a common  
8 reporting form that contains at least the following information  
9 about the product, mixture, or preparation:

- 10 (1) Generic or other name;  
11 (2) Quantity sold;  
12 (3) Date of sale;  
13 (4) Name and address of the wholesaler; and  
14 (5) Name and address of the retailer.

15 [~~(e) For purposes of this section, "extended-release~~  
16 ~~pseudoephedrine combination product" means any product~~  
17 ~~containing pseudoephedrine that also contains other ingredients~~  
18 ~~that protect the pseudoephedrine from immediate release and~~  
19 ~~prevent the pseudoephedrine from being extracted.]"~~

20 SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



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1 SECTION 5. Section 3 of this Act shall take effect on  
2 October 1, 2006. All other sections of this Act shall take  
3 effect upon its approval.

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**Report Title:**

Drugs; Pseudoephedrine; Lunesta

**Description:**

Amends statutory provisions to conform with changes to the Uniform Controlled Substances Act enacted in 2005. (SD2)

